

JOHN E. WINFIELD,)
)
 Plaintiff,)
)
 v.) No. 4:03CV192 CDP
)
 DON ROPER,)
)
 Defendant.)

This matter is before me on petitioner’s “motion to lodge successive petition for writ of habeas corpus pending consideration by the Eighth Circuit Court of Appeals.” On May 7, 2010, petitioner filed a motion in the United States Court of Appeals for the Eighth Circuit for permission to file a successive petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. See Winfield v. Steele, Case No. 10-2018 (8th Cir. 2010). On the same day, petitioner filed the instant motion in this Court. He filed the instant motion “to erase any doubt as to the timeliness of his successive habeas claim.” On May 20, 2010, the United States Court of Appeals for the Eighth Circuit denied petitioner’s motion for permission to file a successive § 2254 petition. Title 28 U.S.C. § 2244(b)(3) states that a petitioner seeking to file a successive petition for habeas corpus in a district court must first receive permission from the appropriate court of appeals. Because the United States Court of Appeals

for the Eighth Circuit has not given permission to petitioner to file a successive § 2254 petition, I must deny the motion.

Accordingly,

IT IS HEREBY ORDERED that petitioner's "motion to lodge successive petition for writ of habeas corpus pending consideration by the Eighth Circuit Court of Appeals" [Doc. 85] is **DENIED**.

Dated this 9th day of September, 2010.

A handwritten signature in cursive script, reading "Catherine D. Perry", is written over a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE